

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

**ROY A. COMBS,**

Petitioner,

v.

**LORIE DAVIS-Director TDCJ-CID,**

Respondent.

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Civil Action No. **3:18-CV-3289-L**

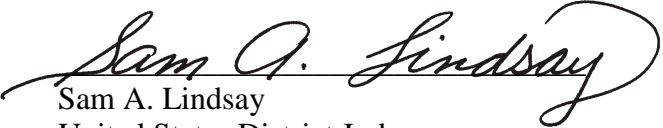
**ORDER**

On August 2, 2019, the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 12) was entered, recommending that Petitioner’s writ of habeas corpus under 28 U.S.C. § 2254 be construed as successive and transferred to the United States Court of Appeals for the Fifth Circuit. Petitioner filed objections to the Report, which were docketed on September 5, 2019 (Doc. 13). In his objections, Petitioner challenges the successive nature of the claims asserted in his current petition, contending that his claim or claims do not pertain to his aggravated robbery conviction but, instead, pertain to his plea agreement; his contention that his trial attorney provided ineffective assistance of counsel provided by his trial counsel; and his belief that the state district attorney acted vindictively in re-indicting him after he was allowed to withdraw his guilty plea.

When a petition is deemed successive, the district court lacks subject matter jurisdiction unless a panel of the Fifth Circuit allows the successive petition to proceed. After reviewing the pleadings, file, record in this case, and Report, and having conducted a de novo review of that portion of the Report to which objection was made, the court agrees with the magistrate judge and determines that the findings and conclusions of the magistrate judge are correct. The court,

therefore, **accepts** the findings and conclusions of the magistrate judge as those of the court (Doc. 12); **overrules** Petitioner's objections (Doc. 13); and **directs** the clerk of the court to **transfer** the habeas petition in this case to the Fifth Circuit to determine whether it should be allowed to proceed.

**It is so ordered** this 31st day of October, 2019.

  
Sam A. Lindsay  
United States District Judge